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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,645	06/23/2003	John M. Wozney	08702.0048-03000	6135

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EXAMINER
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LI, RUIXIANG

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/600,645	WOZNEY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ruixiang Li	1646	1

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6,8,10-13,19 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4,6,8,10-13 and 19 is/are allowed.
- 6) ☒ Claim(s) 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/17/2005</u> | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### **Status of Application, Amendments, and/or Claims**

Applicants' amendment filed on 05/27/2005 has been entered in full. Claims 2, 3, 5, 9, 14-18, 20-23, and 32-52 have been canceled. Claims 1, 4, 6, 8, 10, 11, and 13 have been amended. Claims 1, 4, 6, 8, 10-13, 19, and 31 are pending and under consideration.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

### **Withdrawn Objections and/or Rejections**

The objection to the disclosure as set forth at page 2 of the previous Office Action (Paper No. 20050124, mailed on 01/28/2005) has been withdrawn in view of the amended specification.

All the rejections set forth in the previous Office Action (Paper No. 20050124, mailed on 01/28/2005) that are not reiterated in this action have been withdrawn in view of amended claims, canceled claims, and Applicants' argument.

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### **Information Disclosure Statement**

The information disclosure statement filed on 03/17/2005 has been considered by the Examiner and a signed copy has been attached to this office action.

### **Claims Rejections under 35 U.S.C. 112, 1<sup>st</sup> paragraph, Enablement**

The rejection of claim 31 under 35 U.S.C. 112, first paragraph, as set forth at page 7 of the previous Office Action (Paper No. 20050124, mailed on 01/28/2005), is maintained.

Applicants have amended the specification to recite the date of the deposit, the complete name and address of the depository, and the accession number of the deposited material. However, Applicants have not amended the claim to recite the specific deposit information for the DNA sequence of CFK1-23a clone. It is suggested that the claim be amended to read: "An isolated DNA molecule comprising the DNA sequence of SEQ ID NO: 1" or "An isolated DNA molecule comprising the DNA sequence deposited under ATCC accession number 69378".

### **Claims Rejections under 35 U.S.C. 112, 2<sup>nd</sup> paragraph**

Claim 31 is indefinite because it recites "CFK1-23a". Such a term is determined arbitrarily without a definitive structure. Others in the field may isolate the same protein and give an entirely different name, as is the case here. As acknowledged in Applicants' response (the middle of page 10) filed on 05/27/2005, the CFK1-23a protein is also known in the art as BMPR-1A, ALK3, and BRK1. Thus, claiming biochemical molecules

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by a particular name given to the protein by various workers in the field fails to distinctly claim what the protein is. Applicants should particularly point out and distinctly claim the CFK1-23a protein by claiming characteristics associated with the protein (e.g., a sequence identifier). This is a new ground of rejection.

### **Conclusion**

Claims 1, 4, 6, 8, 10-13, and 19 are allowed.

### **Advisory Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruixiang Li whose telephone number is (571) 272-0875. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on (571) 272-0829. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, please contact the Electronic Business Center (EBC) at the toll-free phone number 866-217-9197.

*Ruixiang Li*

Ruixiang Li, Ph.D.

Examiner

August 4, 2005